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April 23, 2017

Representative Hank Vaupel, Chair
House Health Policy Committee
Michigan House of Representatives
Lansing, Michigan

RE: Amend HB 4404 (support HB 4403, HB 4405, HB 4408)

Dear Representative Vaupel and Members of the Committee:

I am writing to you today on behalf of the Academy of Integrative Pain Management (formerly the American Academy of Pain Management), and as a resident of Grand Rapids, Michigan and a constituent of Representative Brinks, to suggest amendments to HB 4404, an act which would regulate pain management facilities; however, while amendments are needed to optimize HB 4404, we wish to offer our support for the related and very important bills, HB 4403, HB 4405, and HB 4408.

AIPM recognizes the challenges involved in addressing two major public health crises facing our nation, namely, inadequate treatment for pain and prescription drug abuse, and to that end, has been heavily involved in both national and state-level efforts to address both health concerns. We believe that one of the key ways we can address both public health crises is by improving the current state of pain management options which may be accessed by persons living with pain. **We thank you for addressing these issues, and while we are in support of efforts such as HB 4404 in order to ensure that pain management clinics are operated safely and in the best interests of patient health care, we respectfully offer the following comments which are intended to help further this intent while avoiding potential negative unintended consequences that could cause harm to those living with pain.**

Definition of "Pain Management Facility"

As currently drafted, Section 21805 of HB 4404 defines "pain management facility" to mean "a facility where a majority of the patients are provided treatment for pain through the use of a controlled substance and either the facility's primary practice is the treatment of pain or the facility advertises for any type of pain management service." Exceptions are then made to this rule for inpatient facilities such as hospitals, nursing homes, and hospice programs. **We are largely in support of this definition; however, we are concerned that palliative care programs are not listed as one of the exclusions.**

Palliative care is specialized medical care for people with serious illnesses focused on providing relief from the symptoms and stress of those serious illnesses, including pain management; consequently, it is highly likely that the majority of patients of the prescribers within a palliative care program will be prescribed controlled substances. As this bill is currently drafted, a palliative care program that did not fit neatly into one of the other exclusions (operated within a hospital, for example) would qualify as a pain management facility if they advertised their ability to provide pain management services as a part of the broad spectrum of palliative care. This would cause a whole host of problems for the palliative care program—in part, the program could only operate if its owner/designated physician had a subspecialty certification or fellowship in pain management (as opposed to a certification in hospice and palliative medicine, for example) and further, the owner/designated physician with these qualifications would have to be present at least 50% of the time. It is very typical, in bills such as HB 4404, to exempt palliative care alongside hospice care.

We urge that an exception for “A palliative care program” be added to Section 21805(1).

Ownership and Supervision of a Pain Management Facility

Sections 21809 of HB 4404 outlines the general rule for ownership and supervision of a pain management facility, establishing that at least one of a clinic's owners, or a designated physician at the facility, must hold a valid and active subspecialty certification from a nationally recognized board in pain management or must have completed a residency or fellowship in pain management. We agree that a pain management clinic should be owned and operated by someone with a demonstrable expertise in pain management. However, as an organization with extensive experience in this realm, we feel it imperative that we communicate to you what a **serious shortage of certified/credentialed/boarded pain management specialists** our nation is facing. Our concern (which we have seen play out in other states) is that there is a very real possibility that there will not be a sufficient number of owners with active subspecialty certifications in pain management to operate the facilities needed to treat Michiganders with serious and complex pain conditions under the rules this act would establish. If that is the case, we could see a number of facilities be closed down (despite providing high quality care and without complaints against them) due to a shortage of specialized providers, which could leave **thousands of Michigan residents (particularly those in rural areas) without access to care as they are discharged from their current facilities and unable to obtain new care in the already-at-capacity remaining pain management facilities.**

To increase the number of qualified health care providers that may qualify as owners and/or designated physicians of pain management facilities, **we suggest that you create two additional routes by which one may qualify to own and/or operate a pain management clinic:**

1. AIPM's Advanced Pain Management Practitioner (APMP) certificate program. The program is designed to reinforce the expertise of those who have spent years practicing pain management, but who may not have the ability to complete a fellowship training program. It demonstrates knowledge of and commitment to pain management, with a special emphasis on prescribing. The certificate is earned by documenting professional education, continuing education, and clinical experience and by passing a rigorous 200-question examination on key pain management topics. This certificate of achievement for

advanced standards of pain care is aligned with best practices as defined by the federal National Pain Strategy. To be eligible for the certificate, an MD or DO: must have a master's or doctoral degree, and have practiced for at least 5 years, during which time a minimum of 30% of clinical work must have been working with people in pain; and, must have 50 hours of continuing education, completed within the previous two years, which pertain to pain management, deemed acceptable by one's primary licensing body and is accredited for one's discipline.

2. Earning a certain number of pain-related continuing education credits. A number of states that have established similar rules related to pain management clinics and/or pain management specialists have allowed providers to qualify as pain care specialists by obtaining a certain number of pain-related and prescribing-related continuing education credits. This allows older practitioners, who may not have specialized in pain while in medical school, but have developed an expertise over years of practice, to demonstrate their expertise in the area.

Also established by this general rule is a requirement that at least one facility owner or designated physician must be physically present at least 50% of the time patients are present at the clinic and must hold a valid and active subspecialty certification from a nationally recognized board in pain management or must have completed a residency or fellowship in pain management. We reiterate our above concerns and suggestions in regard to a potential shortage of eligible providers and how to solve that shortage. Additionally, other states, in an effort to avoid such a shortage, have opted for a less stringent presence requirement set at 25% or 33%. If there is any question as to whether there will be a sufficient number of pain management clinics to treat Michiganders in need of care if this act were implemented, we strongly urge you to amend this bill in ways that will mitigate that shortage.

Payment for Pain Management Services

Section 21811 of HB 4404 sets out two requirements related to the payment of services at a pain management facility. **We fully support the requirement that a pain management facility accept private health insurance as a source of payment; however, we strongly oppose the prohibition against a pain management facility accepting payment from anyone other than the patient, patient's insurer, guarantor, spouse, parent, legal guardian, or legal custodian.**

We understand that limiting the class of possible payers in such a way is a well-intentioned effort to weed out bad actors; however, doing so in this way would have the unintended and utterly unfair effect of penalizing low income Michiganders who may be receiving financial help from a friend, neighbor, or charity to cover the costs of their legitimate medical care.

We strongly urge that Section 21811(2) be deleted in its entirety.

We respectfully urge you to amend HB 4404 as outlined above. I am happy to discuss this with you or your staff if necessary. Please feel free to contact me by email at kduensing@integrativepain.org, or by telephone at 209-425-0468.

Respectfully submitted,

A handwritten signature in black ink that reads "Katie Duensing". The signature is written in a cursive, flowing style.

Katie Duensing, J.D.
Assistant Director for Legislative and Regulatory Affairs
State Pain Policy Advocacy Network (SPPAN)
Academy of Integrative Pain Management

About AIPM: The Academy of Integrative Pain Management is the premier organization for all clinicians who care for people with pain. It is the largest pain management organization in the nation and the only one that embraces, as part of its mission statement, an integrative model of care, which: is patient-centered; considers the whole person; encourages healthful lifestyle changes as part of the first line of treatment to restore wellness; is evidence-based; brings together all appropriate therapeutic approaches to reduce pain and achieve optimal health and healing; and, encourages a team approach.

cc:

Representative Sam Singh
Representative Kathy Crawford
Representative Joseph Bellino